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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,220	12/09/2003	Michael J. Sailor	0321.68542	4581
24978	7590	10/02/2009		
GREER, BURNS & CRAIN 300 S WACKER DR 25TH FLOOR CHICAGO, IL 60606			EXAMINER FELTON, AILEEN BAKER	
			ART UNIT 1793	PAPER NUMBER
			MAIL DATE 10/02/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/731,220

Applicant(s)

SAILOR ET AL.

Examiner

Aileen B. Felton

Art Unit

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12, 14, 15 and 17-29 is/are pending in the application.
- 4a) Of the above claim(s) 4-7, 10, 12, 27 and 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 8, 9, 14, 15, 17-26 and 29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Allowable Subject Matter***

1. The indicated allowability is withdrawn in view of the newly discovered references. Rejections based on the newly cited reference(s) follow.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 8, 9, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laucht et al (6220164).

Laucht discloses the structure as claimed, see Fig 2. This patent also discloses the use of nanocrystalline porous silicon as a reaction layer (thin film) on the igniter structure. The porous silicon layer is filled with an explosive gas or gas mixture (col. 3, lines 5-45).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a solid oxidizer to create a more stable explosive device that can be stored for longer time periods.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Laucht et al (6220164) as applied to claims 1, 2, 8, 9, and 29 above, and further in view of Nielson et al (6170399).

Nielson teaches the use of various oxidizers such as PETN and nitrates in an igniter application.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use various oxidizers as taught by Nielson with the device of Laucht since Laucht discloses that explosive gas or gas mixture are included in the porous silicon igniter and since Nielson teaches various oxidizers for igniters.

5. Claims 14, 15, and 17-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laucht et al (6220164) in view of Nonintrusive Diagnostic Techniques for Research on Nonsteady Burning of Solid Propellants to Parr.

Laucht discloses the structure as claimed, see Fig 2. This patent also discloses the use of nanocrystalline porous silicon as a reaction layer (thin film) on the igniter structure. The porous silicon layer is filled with an explosive gas or gas mixture (col. 3, lines 5-45).

Parr teaches the known method of igniting an explosive device and measuring the emission spectrum (pg. 268). Any of the compounds in the explosive composition can be considered the analyte.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the method as taught by Parr with the device as taught by Laucht since Parr teaches that it is known to use explosive devices to determine the emissive spectrum of explosives.

***Response to Arguments***

6. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aileen B. Felton whose telephone number is 571.272.6875. The examiner can normally be reached on Monday-Friday 6:30-4:00, except alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571.272.1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Aileen Felton/  
Primary Examiner  
Art Unit 1793